

PLEASE COMPLETE THE FOLLOWING: (Check appropriate number)

This petition concerns:

1. ☒ a conviction and/or sentence.
2. ☐ prison discipline.
3. ☐ a parole problem.
4. ☐ other.

PETITION

1. Venue

- a. Place of detention Calipatria State Prison
- b. Place of conviction and sentence Superior Court of San Diego County

2. Conviction on which the petition is based (a separate petition must be filed for each conviction being attacked).

- a. Nature of offenses involved (include all counts): Nine counts of robbery and use of a firearm during the commission of the robberies.
- b. Penal or other code section or sections: §211; §12022.53(b)
- c. Case number: SCD182007
- d. Date of conviction: Nov. 22, 2004
- e. Date of sentence: Jan. 10, 2005
- f. Length of sentence on each count: Count 1: 3 years for §211 + 10 years for §12022.53(b); = 1 year for §211 & 3 years 4 months §12022.53(b) on counts 2-9.
- g. Plea (check one):
 - ☐ Not guilty
 - ☒ Guilty
 - ☐ Nolo contendere
- h. Kind of trial (check one):
 - ☒ Jury
 - ☐ Judge only

3. Did you appeal to the California Court of Appeal from the judgment of conviction? ☒ Yes ☐ No

If so, give the following information for your appeal (and attach a copy of the Court of Appeal decision if available):

- a. Case number: D045867
- b. Grounds raised (list each):
 - (1) Insufficient of the evidence

- (2) Denial of Marsden motion denied effective assistance of counsel
(3) _____
(4) _____
(5) _____
(6) _____

c. Date of decision: March 29, 2006

d. Result conviction affirmed

4. If you did appeal, did you also file a Petition for Review with the California Supreme Court of the Court of Appeal decision? ☒ Yes ☐ No

If so give the following information (and attach copies of the Petition for Review and the Supreme Court ruling if available):

- a. Case number: _____
b. Grounds raised (list each):
(1) Insufficient evidence
(2) Denial of Marsden motion denied effective assistance of counsel.
(3) _____
(4) _____
(5) _____
(6) _____
c. Date of decision: June 14, 2006
d. Result review denied

5. If you did not appeal: N/A

- a. State your reasons _____

b. Did you seek permission to file a late appeal? ☐ Yes ☐ No

6. Have you previously filed any habeas petitions in any state court with respect to this judgment of conviction?
☐ Yes ☒ No

If so, give the following information for each such petition (use additional pages if necessary, and attach copies of the petitions and the rulings on the petitions if available):

- a. (1) Name of court: _____
(2) Case number: _____
(3) Date filed *(or if mailed, the date the petition was turned over to the prison authorities for mailing)*: _____
(4) Grounds raised *(list each)*:
(a) _____
(b) _____
(c) _____
(d) _____
(e) _____
(f) _____
(5) Date of decision: _____
(6) Result _____

(7) Was an evidentiary hearing held? ☐ Yes ☐ No

- b. (1) Name of court: _____
(2) Case number: _____
(3) Date filed *(or if mailed, the date the petition was turned over to the prison authorities for mailing)*: _____
(4) Grounds raised *(list each)*:
(a) _____
(b) _____
(c) _____
(d) _____
(e) _____
(f) _____
(5) Date of decision: _____
(6) Result _____

(7) Was an evidentiary hearing held? ☐ Yes ☐ No

- c. (1) Name of court: _____
(2) Case number: _____
(3) Date filed *(or if mailed, the date the petition was turned over to the prison authorities for mailing)*: _____
(4) Grounds raised *(list each)*:
(a) _____
(b) _____

- (c) _____
 (d) _____
 (e) _____
 (f) _____

(5) Date of decision: _____

(6) Result _____

(7) Was an evidentiary hearing held? ☐ Yes ☐ No

7. For this petition, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than five grounds. Summarize briefly the facts supporting each ground. For example, if you are claiming ineffective assistance of counsel, you must state facts specifically setting forth what your attorney did or failed to do.

CAUTION: *Exhaustion Requirement:* In order to proceed in federal court, you must ordinarily first exhaust your state court remedies with respect to each ground on which you are requesting relief from the federal court. This means that, prior to seeking relief from the federal court, you first must present all of your grounds to the California Supreme Court.

- a. Ground one: Conviction based on insufficient evidence violated Due Process clause of 14th Amendment, U.S. Constitution.

(1) Supporting FACTS: The prosecution's case consist of: 3 masked non-descript blackmen armed with guns robbed Collin's Family Jewelry store on January 30 at 10:05 am. The assailants left in a stolen white buick. On February 1, at 9:00am, a stolen red jeep was found with a drawer divider from the store with petitioner's print.

- (2) Did you raise this claim on direct appeal to the California Court of Appeal? ☒ Yes ☐ No
 (3) Did you raise this claim in a Petition for Review to the California Supreme Court? ☒ Yes ☐ No
 (4) Did you raise this claim in a habeas petition to the California Supreme Court? ☐ Yes ☒ No

- b. Ground two: Failure to grant marsden motion denied right to effective assistance of counsel under 6th & 14th Amend., U.S. Constitution.

(1) Supporting FACTS: Petitioner's trial attorney ignored his request to investigate his alibi defense, therefore, he filed a marsden motion. The trial court denied the motion, accepting trial counsel's excuse for not investigating was because of a general disdain for alibi defense. Prejudice: The defense offered NO evidence at all.

- (2) Did you raise this claim on direct appeal to the California Court of Appeal? ☒ Yes ☐ No
 (3) Did you raise this claim in a Petition for Review to the California Supreme Court? ☒ Yes ☐ No

8. If any of the grounds listed in paragraph 7 were not previously presented to the California Supreme Court, state briefly which grounds were not presented, and give your reasons: _____
- _____
- _____

9. Have you previously filed any habeas petitions in any federal court with respect to this judgment of conviction?

☐ Yes ☒ No

If so, give the following information for each such petition (use additional pages if necessary, and attach copies of the petitions and the rulings on the petitions if available):

a. (1) Name of court: _____

(2) Case number: _____

(3) Date filed (or if mailed, the date the petition was turned over to the prison authorities for mailing): _____

(4) Grounds raised (list each):

(a) _____

(b) _____

(c) _____

(d) _____

(e) _____

(f) _____

(5) Date of decision: _____

(6) Result _____

(7) Was an evidentiary hearing held? ☐ Yes ☐ No

b. (1) Name of court: _____

(2) Case number: _____

(3) Date filed (or if mailed, the date the petition was turned over to the prison authorities for mailing): _____

(4) Grounds raised (list each):

(a) _____

(b) _____

(c) _____

(d) _____

(e) _____

(f) _____

(5) Date of decision: _____

(6) Result _____

(7) Was an evidentiary hearing held? ☐ Yes ☐ No

10. Do you have any petitions now pending (i.e., filed but not yet decided) in any state or federal court with respect to this judgment of conviction? ☐ Yes ☐ No

If so, give the following information (and attach a copy of the petition if available):

(1) Name of court: _____

(2) Case number: _____

(3) Date filed (or if mailed, the date the petition was turned over to the prison authorities for mailing): _____

(4) Grounds raised (list each):

(a) _____

(b) _____

(c) _____

(d) _____

(e) _____

(f) _____

11. Are you presently represented by counsel? ☐ Yes ☒ No

If so, provide name, address and telephone number: _____

WHEREFORE, petitioner prays that the Court grant petitioner relief to which he may be entitled in this proceeding.

Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct.

Executed on 6-15-08
Date

X M. H. Harris
Signature of Petitioner

Michael A. Harris*Petitioner*

**DECLARATION IN SUPPORT
OF REQUEST
TO PROCEED
IN FORMA PAUPERIS**

Larry A. Small, Warden*Respondent(s)*

I, Michael A. Harris, declare that I am the petitioner in the above entitled case; that in support of my motion to proceed without being required to prepay fees, costs or give security therefor, I state that because of my poverty I am unable to pay the costs of said proceeding or to give security therefor; that I believe I am entitled to relief.

1. Are you presently employed? ☐ Yes ☒ No

a. If the answer is yes, state the amount of your salary or wages per month, and give the name and address of your employer. _____

b. If the answer is no, state the date of last employment and the amount of the salary and wages per month which you received. _____

2. Have you received, within the past twelve months, any money from any of the following sources?

- a. Business, profession or form of self-employment? ☐ Yes ☒ No
- b. Rent payments, interest or dividends? ☐ Yes ☒ No
- c. Pensions, annuities or life insurance payments? ☐ Yes ☒ No
- d. Gifts or inheritances? ☐ Yes ☒ No
- e. Any other sources? ☐ Yes ☒ No

If the answer to any of the above is yes, describe each source of money and state the amount received from each during the past twelve months: _____

3. Do you own any cash, or do you have money in a checking or savings account? *(Include any funds in prison accounts)*

☐ Yes ☒ No

If the answer is yes, state the total value of the items owned: _____

4. Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property? (*Excluding ordinary household furnishings and clothing*) ☐ Yes ☒ No

If the answer is yes, describe the property and state its approximate value: _____

5. List the persons who are dependent upon you for support, state your relationship to those persons, and indicate how much you contribute toward their support: _____

N/A

I, declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

Executed on 6-15-08
Date

x 
Signature of Petitioner

CERTIFICATE

I hereby certify that the Petitioner herein has the sum of \$_____ on account to his credit at the _____ institution where he is confined. I further certify that Petitioner likewise has the following securities to his credit according to the records of said institution: _____

SEE NEXT PAGE

Date

Authorized Officer of Institution/Title of Officer

If you are a prisoner you must have an officer from your institution provide this official certificate as to the amount of money in your prison account. There are no exceptions to this requirement.

PRISON CERTIFICATE
(Incarcerated applicants only)
(To be completed by the institution of incarceration)

I certify that the applicant _____

(NAME OF INMATE)

(INMATE'S CDC NUMBER)

has the sum of \$ 0 on account to his/her credit at _____

CAHUPATRIA STATE PRISON

(NAME OF INSTITUTION)

I further certify that the applicant has the following securities N/A
to his/her credit according to the records of the aforementioned institution. I further certify that during

the past six months the applicant's average monthly balance was \$ 19.73 ps

and the average monthly deposits to the applicant's account was \$ 17.50 ss

6/13/08

DATE

SIGNATURE OF AUTHORIZED OFFICER OF INSTITUTION

GUADALUPE V. GARCIA

OFFICER'S FULL NAME (PRINTED)

Accounting Officer Supervisor

OFFICER'S TITLE/RANK

REPORT ID: TS3030 .701 REPORT DATE: 06/13/08 PAGE NO: 1

CALIFORNIA DEPARTMENT OF CORRECTIONS
CALIPATRIA STATE PRISON
INMATE TRUST ACCOUNTING SYSTEM
INMATE TRUST ACCOUNT STATEMENT

FOR THE PERIOD: DEC. 01, 2007 THRU JUN. 13, 2008

ACCOUNT NUMBER : V64465 BED/CELL NUMBER: FB01000000000148U
ACCOUNT NAME : HARRIS, MICHAEL ANTHONY ACCOUNT TYPE: I
PRIVILEGE GROUP: A

TRUST ACCOUNT ACTIVITY

DATE	TRAN CODE	DESCRIPTION	COMMENT	CHECK NUM	DEPOSITS	WITHDRAWALS	BALANCE
12/01/2007		BEGINNING BALANCE					0.00
ACTIVITY FOR 2008							
03/03	D340	EFT DEPOSIT	90753/5000		40.00	40.00	
03/10	W408	DONATION-RECR	B-BQ 5186			22.00	18.00
03/17	FC02	DRAW-FAC 2	B-1 5383			18.00	0.00
03/18	D340	EFT DEPOSIT	90769/5409		70.00		70.00
04/14	FC02	DRAW-FAC 2	B-1 6063			70.00	0.00
05/02	D340	EFT DEPOSIT	90814 6518		50.00		50.00
05/09	D340	EFT DEPOSIT	90821/6675		50.00		100.00
05/13	W452	DONATION-STRA	PIZZA 6739			24.50	75.50
05/19	FC02	DRAW-FAC 2	B-1 6908			75.50	0.00

TRUST ACCOUNT SUMMARY

BEGINNING BALANCE	TOTAL DEPOSITS	TOTAL WITHDRAWALS	CURRENT BALANCE	HOLDS BALANCE	TRANSACTIONS TO BE POSTED
0.00	210.00	210.00	0.00	0.00	0.00

CURRENT AVAILABLE BALANCE
0.00



THE WITHIN INSTRUMENT IS A CORRECT
COPY OF THE TRUST ACCOUNT MAINTAINED
BY THIS OFFICE.
ATTEST:

CALIFORNIA DEPARTMENT OF CORRECTIONS
BY *[Signature]*
TRUST OFFICE



SHERRI R. CARTER

District Court Executive
and Clerk of Court

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION**
312 North Spring Street, Room G-8 Los
Angeles, CA 90012
Tel: (213) 894-7984

SOUTHERN DIVISION
411 West Fourth Street, Suite 1053
Santa Ana, CA 92701-4516
(714) 338-4570

EASTERN DIVISION
3470 Twelfth Street, Room 134
Riverside, CA 92501
(951) 328-4450

Wednesday, July 02, 2008

MICHAEL A. HARRIS V-64465
CALIPATRIA STATE PRISON YARD B, BLD 1, CELL
148
P.O. BOX 5005
CALIPATRIA, CA. 92233-5005

Dear Sir/Madam:

A ☒ Petition for Writ of Habeas Corpus was filed today on your behalf and assigned civil case number
CV08- 4381 RSWL (RC)

A ☐ Motion pursuant to Title 28, United States Code, Section 2255, was filed today in criminal case
number and also assigned the civil case number

Please refer to these case numbers in all future communications.

Please Address all correspondence to the attention of the Courtroom Deputy for:

☐ District Court Judge _____

☒ Magistrate Judge Rosalyn M. Chapman

at the following address:

☒ U.S. District Court
312 N. Spring Street
Civil Section, Room G-8
Los Angeles, CA 90012

☐ Ronald Reagan Federal
Building and U.S. Courthouse
411 West Fourth St., Suite 1053
Santa Ana, CA 92701-4516
(714) 338-4750

☐ U.S. District Court
3470 Twelfth Street
Room 134
Riverside, CA 92501

The Court must be notified within fifteen (15) days of any address change. If mail directed to your address of record is returned undelivered by the Post Office, and if the Court and opposing counsel are not notified in writing within fifteen (15) days thereafter of your current address, the Court may dismiss the case with or without prejudice for want of prosecution.

Very truly yours,

Clerk, U.S. District Court

By: AGIGLIOT
Deputy Clerk